

GOVERNMENT OF TELANGANA

ABSTRACT

Tribal Welfare Department – Warangal (Rural) District – Appeal Petition filed by Sri K.Laxminarayana, S/o. Late K.Chandraiah, Traffice Inspector-3, C/o. Midhani Depot, Hyderabad, R/o. H.No.7-166, Saiprabhu Homes, Badangapet, Balapur (M), Rangan Reddy District, under Section 7(2) of the Act 16 of 1993, against the Procs.No.C3/1843/2017, dt.16.10.2019 of the Collector & District Magistrate, Warangal (Rural) District – DISMISS the Appeal filed by Sri K.Laxminarayana, S/o. Late K.Chandraiah & upholding orders of the Collector & District Magistrate, Warangal (Rural) in Procs.No.C3/1843/2017, dt.16.10.2019 - Orders – Issued.

TRIBAL WELFARE (LTR) DEPARTMENT

G.O.Ms.No. 44

**Dated: 05-06-2021,
Read the following:**

1. Procs.No.C3/1843/2017, dt.16.10.2019 of the Collector & District Magistrate, Warangal (Rural) District.
2. U.O.Note No.240/SCD.POA.A2/2020, dt.19.02.2020 of the SCD Department along with Appeal Petition filed by Sri K.Laxminarayana, S/o. Late K.Chandraiah, Traffice Inspector-3, C/o. Midhani Depot, Hyderabad, R/o. H.No.7-166, Saiprabhu Homes, Badangapet, Balapur (M), Rangan Reddy District, dt. 13.2.2020.
3. Govt.Memo.No.455/TW.LTR/2020, dated: 23.07.2020.
4. Letter Rc.No. C3/1843/2017 from the Collector & District Magistrate, Warangal(Rural), dated. 14.8.2020 & 21.01.2021
5. Govt.Memo.No.455/TW.LTR/2020, dated: 11.01.2021
6. Orders of High Court of Telangana at Hyderabad in IA.No.1 of 2020 in WP.No.6191 of 2020 dt: 11.06.2020.
7. Govt. Appeal Notice No.455/TW.LTR/2020, dated: 11.01.2021

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ORDER:

In the reference 1st read above, the Collector & District Magistrate, Warangal (Rural) District in her Procs.No.C3/1843/2017, dt.16.10.2019 had cancelled the ST certificate issued in favour of Sri K.Laxminarayana S/o Chandraiah R/o H.No.7-166, Saiprabhu Homes, Badangapet Mandal, Balapur, Rangareddy District as he belongs to BC-D Munnuru Kapu community but obtained ST caste certificate fraudulently and secured employment in TSRTC. The grounds of cancellation are as follows:

- The Depot Manager, Midhani Depot, TSRTC had informed that Sri K.Laxminarayana, Midhani Depot R/o Shapur village of Sangem Mandal secured employment in the TSRTC by producing bogus Caste Certificate and also requested to cancel the bogus caste certificate issued to him.
- The Tahsildar, Sangem had enquired the matter and submitted report through his Lr.No.C/199/2017, dt.31.03.2017 stating that Sri Koriginja Laxminarayana S/o Chandraiah R/o Shapur village of Sangem Mandal who was said to have been issued caste certificate through Rc.No.C/3041/1988, dt.05.06.1988 was not found in the Distribution Register of 1988 and said reference certificate was not issued from the Tahsil office, Sangem.
- The Tahsildar, Sangem in his Lr.No.C/199/2017, dt.24.04.2018 further reported that Sri K.Laxminarayana S/o Chandraiah was not residing in the village last (35) years. The Head Master, ZPSS Geesugonda had also furnished a report that Sri K.Laxminarayana belongs to "Munnurukapu" and that the villagers revealed that they do not know the caste of Sri K.Laxminarayana.

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- The matter was placed before the DLSC and notices were issued to Sri Koriginja Laxminarayana vide ref.No.C3/1843/2017, dt.13.07.2018 to appear before the DLSC on 23.07.2018 at 3.00 p.m along with documentary evidence.
- Accordingly, on 23.7.2018, Sri Koriginja Laxminarayana and also the Tahsildar, Sangem had appeared before the DLSC. Sri Koriginja Laxminarayana had submitted sworn statement that he is presently residing at Badangipet (v) of Ranga Reddy District with his wife, daughter, son, mother and working as Supervisor in Farooq Nagar Depot, Hyderabad. His father Chandraiah and uncle (resides at Pasra) expired long back and his mother Janakamma is staying with him only. Their family migrated to Geesugonda Mandal at the age of 4 years and he did not know about his native village and relatives. He studied 7th to 10th class during 1977-1981 in ZPHS Geesugonda. Their family migrated to Hyderabad in 1988 for their livelihood. In 1992, he married Jyothi (love marriage) who belongs to BC-D Munnurukapu. His daughter Soumya, aged 24 years doing private job and son Krishna Sai, aged 22 years also doing private job have got BC-D Munnurukapu caste certificates from the Tahsildar, Bandlaguda, Hyderabad Revenue Division as per his wife's caste. Their family deity is Laxminarayana Swamy and presently prays Sai Baba. In their families, they cremate dead bodies, but failed to furnish any other documentary evidence except his caste certificate.
- DLSC directed the Tahsildar, Sangem to conduct further enquiry to know whether any other person is there with surname claiming ST community.
- Tahsildar, Sangem in his report in Lr.No.C/199/2017, dt.22.06.2019 had reported that there is no person with surname i.e. KORIGINJA in the village and the same was also confirmed by the Sarpanch and other elders of the village.
- DLSC came to a conclusion that the individual belongs to Munnurukapu BC-D community but claimed ST "Erukala" community for getting job as reported by the Depot Manager, Midhani Depot, TSRTC Hyderabad which deserves to be cancelled.
- Hence, basing the recommendations of the DLSC, exercising powers conferred by the Government U/s.5 (1) of Act 16 of 1993 and Rules, 1997 communicated in GO ms.No.58, SW (J) Dept. dt.12.5.1997 as adopted by the Government of Telangana vide GO Ms.No.5, SCD Dept. dt.8.8.2014 – the District Collector, Warangal (Rural) had cancelled the ERUKALA (ST) Community Certificate bearing No.C/3041/1988, dt.05.06.1988 issued from Tahsil Office, Sangem to Sri K.laxminarayana S/o Chandraiah R/o Shapur village of Sangem Mandal (presently residing at H.No.7-166, Salprabhu Homes, Badangapet Mandal, Balapur, Rangareddy District and working as Supervisor in Farooq Nagar Depot, Hyderabad). A Notification to the said effect was also published in the District Gazette Ordinary.

2. Aggrieved by the above cancellation orders of the District Collector, Warangal (Rural) District in the reference 1st cited, Sri K.Laxminarayana, Traffic Inspector-3, C/o Midhani Depot, Hyderabad has filed Appeal under section 7 (2) of the Telangana State (Scheduled Caste, Scheduled Tribes and Backward Classes) Regulation of Issuance of Community Certificate Act, 1993 before the Government in Scheduled Caste Development Department on 13.02.2020 which has been forwarded to the Tribal Welfare Department vide U.O.Note No.240/SCD.POA.A2/2020, dt.19.02.2020 by the SCD Department as it pertains to Tribal Welfare Department. The following grounds are urged by the Appellant Sri K.Lakshminarayana in the Appeal:

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- A complaint dated 04.09.2017 was filed against him by Sri M.Bhaniya, Traffic Inspector, R/o Plot No.77, Laxminagar Colony, Tukuguda village, Maheshwaram Mandal, Ranga Reddy District to the Depot Manager, Midhani Depot stating that he belongs to BC-D Munnurukapu community but obtained fraudulent ST certificate and secured employment in the TSRTC. The said complaint was forwarded to the District Collector, Warangal (Rural).
- In compliance to the notice issued by the Collector, Warangal (Rural) vide Rc.No.C3/1843/2017, dt.13.07.2018, he appeared before the DLSC on 23.7.2018 and submitted explanation that he migrated along with his parents late Sri K.Chandraiah and Smt.K.Janakamma when he was four years old, to Geesugonda Mandal for livelihood. They moved to new place in search of livelihood from Shapuram village, Sangem Mandal of Warangal District. They belong to Yerukala community which is recognized as ST under:

1. The Constitution (Scheduled Castes) Order, 1950.
2. The Constitution (Scheduled Tribes) Order, 1950.
3. GO Ms.No.1973, dated 23.09.1979 as amended from time to time as per proceedings of AP State Koriginja Laxminarayana residing in Shapuram village.

To the above effect, the caste certificate was issued by the Mandal Revenue Officer, Sangem Mandal dt.5.6.1988.

- He further stated that there were lot of family disputes for few years between him and his wife and led to lot of differences and ultimately started living separately.
- He married inter-caste woman in love. His wife had taken his daughter and son with her and hence caste of his wife was entered in their school records. This statement was neither recorded before the Collector nor considered and came to a conclusion that he belongs to BC-D Munnurukapu community as his wife belongs to the said caste and that his children also recorded the same caste.
- He was not provided with verification reports based on which the Collector came to a conclusion that he belongs to BC-D but not ST caste and Yerukala community. He is not aware as to whether clauses (1) to (7) of Sub-Rule (d) of Rule 8 of above Act were followed or not.
- He joined the services in Telangana State Road Transport Corporation on 9.4.1993 as a Driver and as per his clean service record, seniority and experience, got 3 promotions in a period of 26 years unblemished service.
- With an intention to tarnish his image, the complaint dated 4.9.2017 was made against after 26 years of long service and he is yet to perform daughter's marriage, take care of his family along with old aged mother.
- At this stretch of time, if his employer takes any adverse decision against him based on the proceedings No.C3/1843/2017, dated 16.10.2019 of the District Collector, Warangal (Rural), he will be thrown on streets and will be losing livelihood.
- Therefore, prayed the appellate authority to set aside the proceedings No.C3/1843/2017, dated 16.10.2019 of the Collector & District Magistrate, Warangal (Rural) and allow his Appeal to secure the ends of justice.

3. In the reference 3rd cited, the appeal has been admitted by the Government and a copy of the same has been sent to the Collector & District Magistrate, Warangal (Rural) and requested to furnish para-wise remarks and connected original records.

4. Accordingly, in compliance to the Govt. Memo dated 23.07.2020. & 11.01.2021 (In the reference 3rd & 5th cited) the Collector & District Magistrate, Warangal (Rural) has submitted Brief note stating the same facts as reported in the cancellation orders along with connected documents in the reference 4th cited.

5. The appellant Sri K.Laxminaryana has also filed WP No.6191/2020 in the Hon'ble High Court at Hyderabad praying to issue Writ order or direction more in the nature of Writ of Mandamus declaring the action of the 4th respondent (the Divisional Manager, Charminar Division, Farooq Nagar) in issuing the impugned proceedings No.PA/1141/2020DVMCRM, dt.28.02.2020 dismissing the petitioner from service of the Corporation with immediate effect without following the due process of law and in not paying the salary for the month of February, 2020 is arbitrary, unjust, illegal contrary to the TSRTC Employees CC and A Regulations 1967 Rules and also subversive of Articles 14, 16 and 21 of the Constitution of India duly setting aside the proceedings issued by the 4th respondent in Proceedings No.PA/1141/2020DVMCRM, dt.28.02.2020 and hold the petitioner is entitled for reinstatement to the post of Deputy Superintendent of Traffic Inspector2, Farooqnagar Depot, Charminar Division, Hyderabad with all consequential benefits and pass such order or orders pending disposal of WP No.6191 of 2020 on the file of the Hon'ble High Court.

6. In the reference 6th cited, the Hon'ble High Court while directing issue of notice to the Respondents (1. TSRTC represented by its Managing Director, Musheerabad, Hyderabad; 2. Regional Manager, TSRTC, Hyderabad Region, MGBS, Hyderabad; 3. The Executive Director/GHZ, JBS, Secunderabad; 4. The Divisional Manager, Charminar Division, Farooq Nagar; 5. The Depot Manager, Charminar Division, Farooqnagar and 6. The District Collector, Warangal (Rural) District herein to show cause as to why the said application should not be complied with, made the following order:

"Notice. If petitioner is entitled to salary or any other benefits for the period of service rendered by him prior to order of dismissal from service, same shall be settled within six weeks."

The above WP is pending before the Hon'ble High Court.

7. In the reference 7th cited, notices were issued to to the appellant and all other concerned to attend for hearing on 23.1.2020 at 2 p.m - Both appellant and his counsel present. Counsel has filed Written Arguments – gist of the same is as follows:

- Complainant Sri M.Baniya, Traffic Inspector R/o Plot No.7, Lakshminagar, Thukkuguda village, Maheshwaram Mandal, RR District is a blackmailer demanding lakhs of rupees from innocent persons like appellant - therefore, not to believe his alleged baseless complaints/petitions.
- Without any notice and without giving any opportunity, the Commissioner (TW) given one side report basing on wrong complaint and wrong advice of Sri M.Baniya, Traffic Inspector which will bind on the appellant. His marriage was not criteria for determining his caste. He can marry from any caste and inter-caste marriages are encouraged by the Government.
- DLSC also not conducted inquiry properly, which was also one sided based on the complainant and no witnesses from appellant side were examined.

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- Sri M.Baniya ST has no locus standi to give complaint about appellant's appointment in the year 1993 i.e. after completion of 28 years of service. Telangana State was formed on 2.6.2014 but his caste certificate was issued on 5.6.1988 vide No.3814/1986.
- School records of appellant are to be taken as basis for determining the case – there was no malafide intention to obtain ST Yanadi certificate as the MRO after thorough enquiry had issued ST-Yanadi caste certificate to the appellant. The present Tahsildar, Sangem with the advice and black-mailing of complainant M.Baniya, given wrong remarks saying that appellant belongs to BC-D Munnuru kapu caste which is not correct besides saying that the school records mentioned as ST-Erukala, which is valid and binding on all the authorities including the revenue officials.
- The occupations and habits of Erukalas are changing from earlier days because of education – they are doing cultivation, agricultural labourers, labour work and also killing rats in the agricultural fields to protect crops and fishing.
- As per Apex Court Judgment 1994 AIR SCW Page 4116 held that the entries in the school register, furnish great value to the declaration of the status of a caste. The entries in Birth Register, School Records shown as appellant belongs to ST-Erukala – therefore, the MRO following procedure issued ST-Erukala caste certificate to the appellant.
- Parents of appellant obtained caste certificate as ST Erukala – forefathers migrated from Adilabad district to Warangal district and then to Hyderabad about 200 years back – no knowledge about their original in Nellore and Guntur districts.
- People who had investigated his case were not acquainted with tribal customs; they cannot identify the tribes, tribal communities, parts of or groups of tribes or tribal communities.
- DLSC had not followed procedure of getting the matter investigated into by the Inspector of Police to the local place of residence of a person as per Rule 9 (3) of Rules, 1997.

8. The Government has examined the evidences available on record and perused the findings of the DLSC, reports of Tahsildar, Sangem dt. 31.3.2017, 24.4.2018, 22.6.2019, report of Dist. Educational Officer, Warangal (Rural) dt.25.7.2018, appeal petition, written arguments filed by counsel for appellant etc and observed that –

- The appellant Sri Koriginja Lakshminarayana E-205600, Traffic Inspector-III of Midhani Depot contended that he belongs to ST – Erukala community. The Tahsildar, Sangem after verifying his school records and following due procedure, issued him ST Erukala Caste Certificate bearing Rc.No.C/3041/1988, dt.5.6.1988 on which he secured employment in TSRTC under ST category. The Tahsildar, Sangem in his reports dt.31.3.2017, 24.4.2018 and 22.6.2019 stated that the caste certificate bearing No.C/3041/1988, dt.5.6.1988 stated as issued as Sri Koriginja Laxminarayana was verified with Distribution Register of 1988 and found no entry – therefore, the certificate is found not issued by Tahsil Office, Sangem. Further, he was not a resident of Shapur village of Sangem Mandal in the last (35) years and that during his enquiry in the village, it was informed that there is no other person with surname KORIGINJA.

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- As seen from the school records of ZPHS Geesugonda Mandal, Dist. Warangal Rural, the appellant joined the school in Class VII on 8.7.1977 wherein his caste was mentioned as Munnuru Kapu. The District Educational Officer, Warangal (Rural) in his letter Rc.No.971/A3/2018, dt.25.7.2018 reported that the individual studied in ZPSS Geesugonda from VII to X class (1977 to 1981) and passed SSC in April, 1981. His caste was mentioned as Gouda (BC-B) in the TC No.18166, dt.15.12.2017.

9. The appellant has failed to produce any documentary evidences to prove his claim as belonging to ST Erukala community like ST Erukala Caste certificate issued to his father as contended by him, pedigree of his family all belonging to ST Erukala community, cultural traits etc.

10. Therefore, the Government do not find any valid reason to allow appeal in the light of the clinching evidences disproving his claim as belonging to ST Erukala.

11. Accordingly, Government hereby **DISMISS** the Appeal filed by Sri K.Laxminarayana, S/o. Late K.Chandraiah, Traffice Inspector-3, C/o. Midhani Depot, Hyderabad, R/o. H.No.7-166, Saiprabhu Homes, Badangapet, Balapur (M), Ranga Reddy District & **upholding** orders of the Collector & District Magistrate, Warangal (Rural) in Procs.No.C3/1843/2017, dt.16.10.2019.

12. The Collector and District Magistrate, Warangal (Rural) District shall take necessary action in the matter.

13. The connected record received from the Collector and District Magistrate, Warangal (Rural) District through 4th read above are returned herewith to Collector and District Magistrate, Warangal (Rural) District and requested to acknowledge the receipt of the same immediately.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF TELANGANA)

Dr.CHRISTINA Z.CHONGTHU
SECRETARY TO GOVERNMENT

To

1. The Collector and District Magistrate, Warangal (Rural) District (w.e) (By RPAD)
2. Sri K.Laxminarayana, S/o. Late K.Chandraiah, Traffice Inspector-3,
C/o. Midhani Depot, Hyderabad,
Residential Address: R/o. H.No.7-166, Saiprabhu Homes, Badangapet,
Balapur (M),Rangan Reddy District (By RPAD)

Copy to:

1. The Managing Director, Telangana State Road Transport Corporation,
Musheerabad, Hyderabad.
(for information and necessary action)
2. The Depot Manager, Midhani Depot, TSRTC, Hyderabad
(for information and necessary action)
3. The Depot Manager, Charminar Division, Farooq Nagar, Hyderabad
(for information and necessary action)
4. The Commissioner of Tribal Welfare, TS, Hyderabad (for information)
5. The P.S. to Minister for ST Welfare (for information)
6. The PS to Secretary to Govt. (TW)
7. The PS to Special Secretary to Govt.(TW)
8. SF/SC.

//FORWARDED :: BY ORDER//

SECTION OFFICER